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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/091,510	12/17/1998	CHRISTOPHER TOWNSEND	2365-104	5025
6449	7590	11/10/2003		
ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			EXAMINER BROWN, RUEBEN M	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 11/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/091,510

Applicant(s)

TOWNSEND ET AL.

Examiner

Reuben M. Brown

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_


3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached Advisory Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 1,3-8,10-33,35-45,59,60 and 65-68.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

**ADVISORY ACTION**

***Response to Arguments***

1. Applicant's arguments filed 9/10/2003 have been fully considered but they are not persuasive. Applicant continues to argue that the disclosure of Throckmorton does not reads on the claimed feature, recited in claim 1 of, "a processor responsive to the stored information data to output for display data derived from said image data and said information data and representing an interactive image". Examiner respectfully disagrees with applicant's position.

Again, as pointed in the final Office Action mailed 5/7/2003, Throckmorton teaches that the associated data, which may be sent independent of primary video data or extracted from primary video data, is stored at the user terminal device; see col. 4, lines 12-27 & col. 7, line 67 thru col. 8, lines 1-2. Moreover, it is explicitly disclosed that the associated data includes image data (i.e., graphics, text, still images, HTML pages) and information data (scripts); see col. 3, lines 55-67; col. 4, lines 52-65; col. 6, lines 54-63). Furthermore, it is discussed in col. 6, lines 52-64, that the types of associated data includes, WWW pages, closed captioning, stock quotes, sports scores, control codes for microprocessor to execute. Therefore examiner does not understand applicant's insistence that script data is not stored in Throckmorton.

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Real Time Trigger 76, which is a software component included in the user's receiver equipment, uses the script data in order to retrieve the appropriate associated data to displayed along with corresponding primary video images, col. 7, lines 9-30.

Applicant argues on pages 9-10 that if a received command were stored, it would not be available during the process of program reception. Applicant asserts, "if data were stored, it wouldn't be real time". However, this conclusion is not consistent with the teachings of Throckmorton. Clearly, Throckmorton discloses that the associated data may be stored in the receiver prior to the image being displayed with its corresponding video image, col. 4, lines 25-27 & col. 4, lines 60-63. Thus the script information must be stored (i.e., held in memory), at least until it is used to retrieve the appropriate image data to be displayed with it corresponding video data.

Specifically, Throckmorton discloses, " a script specifies that a detailed data sheet will be delivered to the consumer **prior** to a specific TV product advertisement, and that the data sheet will be displayed on the consumer's personal computer display when a certain TV advertisement starts", emphasis added. Therefore, it is necessary for the script to be held in memory, i.e., stored at the consumer device at least until it is time to display the appropriate image data, since in at least one embodiment; the image data is stored in memory **prior** to being synchronized with the corresponding video data.

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Examiner points out that the claim does not specify that the image data and information data are stored in the same memory unit. Neither does the claim specify how long the data is stored. Thus even if the information data is only momentarily held in a RAM, a buffer or some other memory unit, such an arrangement reads on the claimed subject matter.

Applicant's remaining arguments regarding the motivation for combining the references parallel the previous response, and were discussed in detail in the final Office Action mailed 5/7/2003. Thus, examiner maintains the final rejection of record.

Applicant's proposed amendment to claim 35 is sufficient to overcome the objection of record to the claim.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
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**or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**Or:**

(703) 746-6861 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown